

## Nuclear Regulatory Commission

## § 11.21

NRC-R special nuclear material access authorization would afford. An NRC or DOE-L access authorization or an equivalent security clearance ("Secret"), based on a background investigation or national agency check, which was granted or being processed by another Federal agency prior to April 30, 1990 is acceptable to meet this requirement.

[50 FR 39078, Sept. 27, 1985, as amended at 55 FR 11574, Mar. 29, 1990; 55 FR 14379, Apr. 17, 1990; 58 FR 44435, Aug. 23, 1993; 60 FR 26356, May 17, 1995]

### **§ 11.16 Cancellation of request for special nuclear material access authorization.**

When a request for an individual's access authorization is withdrawn or cancelled, the licensee shall notify the Chief, Personnel Security Branch, NRC Division of Security immediately, by telephone, so that the full field investigation or national agency check and credit investigation may be discontinued. The caller shall provide the full name and date of birth of the individual, the date of request, and the type of access authorization originally requested ("U" or "R"). The licensee shall promptly submit written confirmation of the telephone notification to the Personnel Security Branch, NRC Division of Security. A portion of the fee for the "U" special nuclear material access authorization may be refunded depending upon the status of the full field investigation at the time of withdrawal or cancellation.

[55 FR 11574, Mar. 29, 1990, as amended at 55 FR 14379, Apr. 17, 1990]

### **CRITERIA FOR DETERMINING ELIGIBILITY FOR ACCESS TO, OR CONTROL OVER, SPECIAL NUCLEAR MATERIAL**

#### **§ 11.21 Application of the criteria.**

(a) The decision to grant or deny special nuclear material access authorization is a comprehensive, common-sense judgment, made after consideration of all the relevant information, favorable or unfavorable, that to grant or deny special nuclear material access authorization is or is not inimical to the common defense and security and is or is not clearly consistent with the national interest.

(b) To assist in making these determinations, on the basis of all the information in a particular case, there are set forth in § 10.11 of this chapter a number of specific types of derogatory information. These criteria are not exhaustive but contain the principal types of derogatory information which in the opinion of the Commission create a question as to the individual's eligibility for special nuclear material access authorization. These criteria are subject to continuing review and may be revised from time to time as experience and circumstances may make desirable.

(c) When the reports of investigation of an individual contain information reasonably falling within one or more of the classes of derogatory information listed in § 10.11, it shall create a question as to the individual's eligibility for special nuclear material access authorization. In such cases, the application of the criteria shall be made in light of and with specific regard to whether the existence of such information supports a reasonable belief that the granting of a special nuclear material access authorization would be inimical to the common defense and security. The Director, Division of Security, may authorize the granting of special nuclear material access authorization on the basis of the information in the case or may authorize the conduct of an interview with the individual and, on the basis of such interview and such other investigation as the Director deems appropriate, may authorize the granting of special nuclear material access authorization. Otherwise, a question concerning the eligibility of an individual for special nuclear material access authorization shall be resolved in accordance with the procedures set forth in §§ 10.20 through 10.38 of this chapter.

(d) In resolving a question concerning the eligibility or continued eligibility of an individual for special nuclear material access authorization by action of the Hearing Examiner,<sup>4</sup> the following principle shall be applied by the Examiner: Where there are grounds sufficient to establish a reasonable belief as

<sup>4</sup>The function of the Hearing Examiner is described in Part 10 of this chapter.